

EL DORADO COUNTY DEVELOPMENT SERVICES STAFF REPORT



Agenda of: April 13, 2006

Item No.: 9.b.

Staff: Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S05-0030/Backlot Theatre

APPLICANT: Mike Jimena

AGENT: Rudy Calpo

REQUEST: Special use permit to allow a 258 seat live theater within an existing commercial warehouse in the El Dorado Hills Business Park.

LOCATION: On the west side of Windplay Drive, approximately 500 feet west of the intersection with Sunset Lane, in the El Dorado Hills area. (Exhibit A)

APN: 108-390-03

ACREAGE: 0.23 acre

GENERAL PLAN: Research and Development (R&D) (Exhibit B)

ZONING: Research and Development-Planned Development (R&D-PD) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically Exempt under Section 15301 of the CEQA Guidelines.

SUMMARY RECOMMENDATION: Denial

STAFF ANALYSIS

Project Description: Special Use Permit S05-0030 has been requested for the purpose of converting an existing commercial warehouse to a 258 seat live theater. No new construction, other than tenant improvements, is proposed at the subject parcel. Mikon Productions is a recognized theater company in the Sacramento area and is looking to establish a permanent performance space. Performances would include house productions and touring acts. Hours of operation are proposed to be from 9:00 AM, for set construction and rehearsals, and an unspecified closing time has been proposed. The number of employees has been proposed with a minimum of 1 to 5 for box office hours and up to 40 to 50 for cast and crew. (Exhibit I1-2)

Site Description: The subject site is within the El Dorado Hills Business Park. The improvements on the property consist of two 20,000 square foot buildings with required parking and landscaping. Tenancy of the property consists of four 10,000 square foot industrial airspace condominium units and a common parcel for shared parking and landscaping. The live theater is proposed to be housed within a portion of one of the 10,000 square foot condominiums as a tenant improvement. The property is directly adjacent to a residential development within the Carson Creek Specific Plan.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R&D-PD	R&D	Commercial/Warehouse
North	R&D	R&D	Commercial/Warehouse
South	R&D-	R&D	Church
East	R&D	R&D	School
West	CC-SP	AP	Single Family Residences

General Plan: The General Plan designates the subject site as Research and Development (R&D). This designation permits the location of high technology, non-polluting manufacturing plants, research and development facilities, corporate/industrial offices, and support service facilities in a rural or campus-like setting which ensures a high quality, aesthetic environment. The following General Plan policies also apply to this project:

Policy 6.5.1.2: Where proposed non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 6-2 at existing or planned noise-sensitive uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design.

TABLE 6-2 NOISE LEVEL PERFORMANCE PROTECTION STANDARDS FOR NOISE SENSITIVE LAND USES AFFECTED BY NON-TRANSPORTATION* SOURCES						
Noise Level Descriptor	Daytime 7 a.m. - 7 p.m.		Evening 7 p.m. - 10 p.m.		Night 10 p.m. - 7 a.m.	
	Community	Rural	Community	Rural	Community	Rural
Hourly L_{eq} , dB	55	50	50	45	45	40
Maximum level, dB	70	60	60	55	55	50
<p>Notes: Each of the noise levels specified above shall be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises. These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings).</p> <p>The County can impose noise level standards which are up to 5 dB less than those specified above based upon determination of existing low ambient noise levels in the vicinity of the project site.</p>						

Discussion: The subject parcel is directly adjacent to the Carson Creek Specific Plan. Single family residences within the age restricted community are located directly adjacent to the subject parcel. The major issue is theater related parking lot noise at the closest existing residences to the west. Twenty eight parking spaces are directly adjacent to the west property line that could be used by theater patrons. Additional parking spaces along the north and south side of the buildings are of concern also. An existing 8 to 12 foot masonry wall is located along the eastern boundary of the Carson Creek Specific Plan properties.

Bollard Acoustical Consultants, Inc. submitted an *Environmental Noise Assessment for the Backlot Theatre Parking Lot dated January 13, 2006* (Exhibit F). On December 29, 2005, Bollard conducted short-term background noise level measurements on the west side of the project property. The noise level measurements were conducted to provide an indication of existing ambient noise levels at the nearest adjacent residential property to the west of the project site. Based on the results, the existing measured ambient noise in the project vicinity is below the applicable daytime noise standards of General Plan Table 6-2.

Summary of Short-Term Ambient Noise Level Measurement Results Backlot Theatre – El Dorado Hills, California 9-10 a.m. – December 29, 2005		
Location	L_{eq} (dB)	L_{max} (dB)
West side of project site	45-47	53-57

As a means of determining the noise levels due to project parking lot activities, Bollard utilized noise level data collected for previous parking lot studies. Bollard completed an analysis that included the 8 to 12 foot sound wall to determine the sound insulation performance.

Summary of Barrier Insertion Loss Analysis (8-12 foot sound wall)		
Location	L _{eq} (dB)	L _{max} (dB)
West side of project site	46	58

The noise exposure levels mitigated by the existing 8 to 12 foot masonry sound wall comply with daytime and evening performance standards of Table 6-2, but would exceed the nighttime (10:00 PM -7:00 AM) standards by one to three decibels. As noted in Table 6-2, “The County can impose noise level standards which are up to five dB less than those specified above based upon determination of existing low ambient noise levels in the vicinity of the project site”.

***Policy 6.5.1.7:** Noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6-2 for noise-sensitive uses.*

Discussion: Mitigation to reduce the decibel levels would require increasing the height of the existing masonry wall that is located on the adjacent residential parcels. The applicant has submitted a proposal to increase the height of the sound wall by connecting pieces of corrugated metal to the top for a specified length (Exhibit G). Planning Staff is not recommending alteration of the wall without the approval of the land owner as the wall is located on the adjacent parcel. The applicant has contacted Scott Montgomery, the representative of K. Hovnanian Forecast Homes, Inc. which is the developer of the section of the Carson Creek Specific Plan that is adjacent to the subject site. Scott Montgomery expressed concern that the engineering of the wall may not allow extension in height. Ultimately, any alteration of the wall would require approval of adjacent property owners, the home owners association, and the developer of the subdivision.

The applicants have proposed numerous other measures to mitigate the nonconformance with the General Plan. These include reduction in operating hours, valet parking, and blocking off the parking area to the west of the building. However, these measures are difficult to enforce and possibly, in the case of blocking of onsite circulation, may be detrimental to public health, safety and welfare.

***Policy 6.5.1.3:** Where noise mitigation measures are required to achieve the standards of Tables 6-1 and 6-2, the emphasis of such measures shall be placed upon site planning and project design. The use of noise barriers shall be considered a means of achieving the noise standards only after all other practical design-related noise mitigation measures have been integrated into the project and the noise barriers are not incompatible with the surroundings.*

Discussion: All structures on the subject site and adjacent sites are existing. Site planning and project design are not an option. Extension of the existing sound wall may be deemed incompatible with the surroundings.

***Policy 2.2.5.21:** Development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.*

Discussion: The location for the proposed live theater is potentially incompatible with adjoining land uses due to the fact that all structures are existing and the options of site planning and project design change are not viable options. The operation of the theater will include evening and nighttime events that are likely to disturb adjacent residential uses. Noise from the theater parking lot is the primary concern, including people departing from the facility and vehicle noise.

***Policy 2.2.5.2:** All applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and special use permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan.*

Conclusion: As discussed above, the project, as proposed/conditioned, does not conform to the General Plan. Staff recommends denial due to the night, 10:00 PM to 7:00 AM, noise criteria. Staff suggests conditions to limit the hours of operation to 9:00 AM to ensure all patrons and staff are out of the parking lot by 10:00 AM, however this has not been accepted by the applicant, and may be infeasible for a theater operation.

Zoning: The proposed use is permitted in the Research and Development (R&D) Zone District, pursuant to Section 17.35.025.A. The use is similar to Section 17.35.020.E.2 which permits recreational facilities, but due to the hours of operation and possible impact on adjoining land uses, staff determined that this permit falls under the requirements of a special use permit pursuant to section 17.35.025.A.

In order to approve the use, the approving authority may approve or conditionally approve a special use permit only after making the following findings pursuant to Section 17.22.540 of the Zoning Ordinance:

1. The issuance of the permit is consistent with the General Plan.

Discussion: As discussed in the General Plan section above, the use is inconsistent with General Plan Policies 6.5.1.7, 6.5.1.3, 2.2.5.21, and 2.2.5.2.

2. The proposed use would not be detrimental to the public health, safety, and welfare, or injurious to the neighborhood.

Discussion: As discussed above, the operation of the theater will include evening and nighttime events that are likely to disturb adjacent residential uses. Noise from the theater parking lot is the primary concern, including people departing from the facility and vehicle noise. An acoustical analysis has indicated that potential parking lot noise will exceed the night time decibel levels of Table 6-2 of the General Plan. If decibel levels exceed the limits in the General Plan, it can be found that the use would be detrimental to public health and welfare and injurious to the neighborhood.

Parking: Section 17.18.060.44 of the Zoning Ordinance lists the parking requirements by use. The most restrictive parking standard which could be utilized for this project would be the theaters, movies standard which requires one on-site parking space for each three seats within the theater. In this case, there are 258 proposed seats, and 4 handicap spaces, within the theater associated with this project. Using the above standard, the project would require 87 onsite parking spaces. This number of spaces would require a minimum of 4 handicap accessible parking spaces. The submitted site plan shows a total of 123 parking spaces, of which 41 are proposed, with no identified handicap accessible. Comparing the site plan to the elevations shows that parking spaces are proposed in front of roll-up doors on the two building on-site. If approved, Condition 3 prohibits parking spaces to be designated in front of roll-up doors. The existing parking facility provides 82 parking spaces, 4 of which are designed and designated for handicap use, for the 40,000 square feet of gross floor area, averaging one space per 488 square feet of gross floor area. Section 17.18.040.E of the Zoning Ordinance states “Where two or more nonresidential uses on a single site are developed as a recognized shopping or professional center and have distinct and differing hours of use and peak traffic period, e.g., a theater and a bank, the required parking may be adjusted by the planning commission.” Hours of operation of the subject site’s tenants have been included as Exhibit H.

El Dorado Hills Fire Department expressed concern that the County parking requirements were inadequate for the 300 plus occupants that will be attending performances at this location. A verbal request was made by Fred Russell, Fire Marshal of El Dorado Hills Fire Department, that parking agreements with adjacent properties should be made by the applicant to secure additional parking. Site assessments or acoustical analyses have not been done by either the applicants or staff concerning the impact parking on adjacent parcels may have with the adjoining residential properties to the west.

Agency and Public Comments: The following agencies provided comments on this application. Copies of their written comments are available at the Planning Services office. From these comments, the following issues were raised.

El Dorado County Environmental Management Department, Environmental Health Division: The division’s requirements are reflected in the conditions of approval.

El Dorado Hills Fire Department: The Fire Department expressed concern about adequate parking. The Fire Department and the applicant are in negotiations about additional parking adjacent to the site.

At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

ENVIRONMENTAL REVIEW

This project, if approved would be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines stating that “Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures.” Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15301 and;
2. Deny the project as the required findings cannot be made based on the analysis in the staff report and as noted in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Optional Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Site Plan
Exhibit E	Floor Plan
Exhibit F	Acoustical Analysis
Exhibits G1-2	Noise Mitigation Proposal
Exhibit H	Existing Hours of Operation
Exhibits I1-2	Proposed Hours of Operation and Maximum Occupancy
Exhibits J1-3	APN Pages 108-39, 25, and 77

ATTACHMENT 1

CONDITIONS OF APPROVAL

FILE NUMBER S05-0030

Should the Planning Commission consider approval of S05-0030, the following conditions of approval may be considered:

Conditions

El Dorado County Planning Services

1. The project, as approved, consists of the following:

A live theater with 258 seats, and 4 handicap spaces, located at Assessors Parcel Number 108-390-03. Hours of operation shall be 9:00 AM to 9:00 PM seven days a week. All occupants of the building, including patrons, crew, and cast, must exit the parking lot by 10:00 PM.
2. All site improvements shall conform to the site plan(s) attached as Exhibits D and E.
3. The applicant/developer shall provide a minimum of 87 on-site parking spaces. No more than 35 percent of the total parking may be identified as compact spaces, and a minimum of 4 spaces must be designated as handicap only parking. All on-site parking shall meet the parking lot design standards contained in Section 17.18.030 of County Code. Parking spaces shall not be placed in front of roll up doors on the two buildings on-site.
4. If the project will include the sale or give-away of food, including prepackaged food or beverages, the applicant shall be required to meet the minimum requirements of the Health and Safety Code – California Uniform Retail Food Facilities Law (CURFFL). Prior to construction of the facility, plans and a permit shall be submitted to the El Dorado County Department of Environmental Management for review and approval.

ATTACHMENT 2 FINDINGS

FILE NUMBER S05-0030

1.0 CEQA Finding

- 1.1 The project, if approved, would be Categorical Exempt from CEQA pursuant to Section 15301 stating that “Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures”

2.0 Administrative Finding

- 2.1 Special Use Permit S05-0030 has been requested for the purpose of converting an existing commercial warehouse to a 258 seat live theater. No new construction other than tenant improvement is proposed at the subject parcel. Hours of operation are to be 9:00 AM to 9:00 PM seven days a week with all occupants, including patrons, cast, and crew, exiting the parking lot by 10:00 PM. The special use permit shall only be approved or conditionally approved if all of the following findings are made.

2.1 General Plan Consistency.

The proposed use is inconsistent with Policies 6.5.1.7, 6.5.1.3, 2.2.5.21, and 2.2.5.2 of the 2004 El Dorado County General Plan.

The proposed project is likely to exceed noise level standards as required in Table 6-2 of the 2004 General Plan. As all buildings currently exist, the options of site planning and project design change are not viable options. As the project is likely to be injurious to the adjacent residential neighborhood and an incompatible use, the proposed project is inconsistent with the above 2004 General Plan policies. Therefore, a finding of General Plan consistency cannot be made.

2.2 The use is found to not comply with the requirements of Chapter 17.22, Special Use Permits, and the proposed use is considered detrimental to the public health and welfare, and injurious to the neighborhood, based on the conclusions contained in the staff report.

The use is found to be in non-compliance with the requirements of Chapter 17.22, Special Use Permits, and the proposed use is considered detrimental to the public health and welfare, and injurious to the adjacent residential neighborhood, based on the conclusions contained in the staff report.